

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEBRASKA**

**EXPERIAN MARKETING
SOLUTIONS, INC., a Delaware
Corporation,**

Plaintiff,

vs.

**U.S. DATA CORPORATION, a
Nebraska Corporation, and JEFF
HERDZINA,**

Defendants.

CASE NO.: 8:09CV24

ORDER

This matter is before the Court on the Motion to Dismiss (Filing No. 20) filed by Defendants U.S. Data Corporation and Jeff Herdzina. On April 22, 2009, this Court put the Defendants' Motion to Dismiss in abeyance pending the outcome of the parties' settlement negotiations. (Filing No. 32.) On June 1, 2009, the parties reported that settlement negotiations had failed, and, consequently, a settlement would not be reached. On June 16, 2009, the Plaintiff filed a Motion to Amend the Complaint (Filing No. 38) which Magistrate Judge Gossett granted (Filing No. 39). The Plaintiff has filed its Amended Complaint (Filing No. 40).

The Defendants' pending Motion to Dismiss is now moot, and the Court will deny the Defendants' Motion to Dismiss, without prejudice, and order the Defendants to respond to the Plaintiff's Amended Complaint.

IT IS ORDERED:

1. The Defendant's Motion to Dismiss (Filing No. 20) is denied as moot; and
2. The Defendants are ordered to respond to the Plaintiff's Amended Complaint (Filing No. 40) within the time allowed in Fed. R. Civ. Pro. 15(a).

Dated this 16th day of June, 2009.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge